Attorney's Docket No. 042933/374133 PATENT

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Appl. No.:	10/529,577	Confirmation No.: 7884
Applicant(s):	Leppanen, et al.	
Filed:	3/30/2005	
Art Unit:	2446	
Examiner:	Sulaiman Nooristany	
Title:	COMMUNICATION SYSTEM	

Customer No.: 00826

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Alexandria, VA 22313-1450

APPEAL BRIEF TRANSMITTAL
(PATENT APPLICATION – 37 C.F.R. § 41.37)

1. Transmitted herewith is the APPEAL BRIEF in this application, with respect to the Panel Decision dated on July 12, 2010.

2. ☐ Applicant claims small entity status.

3. Pursuant to 37 C.F.R. § 41.20(b)(2), the fee for filing the Appeal Brief is:
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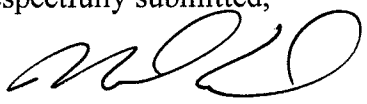
Respectfully submitted,



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APPEAL BRIEF UNDER 37 CFR § 41.37

This Appeal Brief is filed pursuant to the "Notice of Appeal to the Board of Patent Appeals and Interferences" filed May 18, 2010.

1. ***Real Party in Interest.***

The real party in interest in this appeal is Nokia Corporation, the assignee of the above-referenced patent application.

2. ***Related Appeals and Interferences.***

There are no related appeals and/or interferences involving this application or its subject matter.

3. ***Status of Claims.***

Pending claims 1, 11-17, 19, 21-25, and 27-65 stand rejected and are the subject of the present appeal.

4. ***Status of Amendments.***

There are no unentered amendments in this application.

5. ***Summary of Claimed Subject Matter.***

The claimed invention will now be summarized with references to passages of the specification and illustrations in the drawings. It should be understood, however, that the references are provided solely for explanatory purposes, and should not otherwise in and of themselves be taken to limit the scope of the claimed invention. The references to the passages of the specification and the illustrations in the drawings should not be construed as being the only areas of support for the content of the claims, and the references may be relied upon for either express or inherent support.

Independent claim 1 recites an apparatus comprising at least one processor and at least one memory including computer program code, the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus at least to perform (Pat. Appl. Page 9, Lines 14-27, Page 10, Lines 8-22, and FIG. 3, Presence Server 14) storing presence information associated with at least one user (Pat. Appl. Page 16, Lines 20-21, and FIG. 3, Presence Server 14), said presence information comprising a plurality of parts, at least one of said parts comprising information identifying an application for which said at least one part is intended (Pat. Appl. Page 7, Lines 4-9); and providing presence information associated with said at least one user to at least one entity, said at least one entity comprising at least one application, said at least one entity being configured to use said information identifying the application to obtain the at least one part of said presence information for said at least one application (Pat. Appl. Page 7, Lines 11-20, FIG. 3, Presence Server 14, and FIG. 3, Step 3).

Independent claim 21 recites a method, comprising receiving at least a portion of presence information associated with a user (Pat. Appl. Page 10, Lines 16-18, FIG. 3, Presence Server 14), said presence information comprising a plurality of parts, at least one of said parts comprising information identifying an application for which said at least one part is intended (Pat. Appl. Page 7, Lines 4-9); and causing at least one of said parts to be obtained in at least one entity, said at least one entity comprising at least one entity application, the at least one entity obtaining the parts comprising information identifying said at least one entity application for said at least one application (Pat. Appl. Page 7, Lines 11-20, FIG. 3, Presence Server 14, and FIG. 3, Step 3).

Independent claim 23 recites an apparatus comprising associated presence information, wherein said presence information comprises a plurality of parts, wherein said apparatus is configured to provide at least one of said parts with information identifying an application for

which said at least one part is intended (Pat. Appl. Page 7, Lines 22-28, FIG. 3, Presence Server 14, and FIG. 3, Step 3).

Independent claim 24 recites an apparatus comprising at least one processor and at least one memory including computer program code, the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus at least to perform (Pat. Appl. Page 9, Lines 14-27, Page 10, Lines 8-22, and FIG. 3, Presence Server 14) executing at least one application (Pat. Appl. Page 11, Lines 11-20); causing at least one part of presence information associated with an user to be obtained, the at least one part comprising information identifying at least one of said at least one applications, wherein obtaining comprises obtaining the at least one part comprising information identifying said at least one application for said at least one application (Pat. Appl. Page 7, Lines 11-20, FIG. 3, Presence Server 14, and FIG. 3, Step 3).

Independent claim 27 recites an apparatus comprising associated presence information, wherein said presence information comprises a plurality of parts; and provision means for providing at least one of said parts with information identifying an application for which said at least one part is intended (Pat. Appl. Page 7, 22-28, FIG. 3, Presence Server 14, and FIG. 3, Step 3). In this regard, an example structure for the provision means may include the Presence Server 14.

Independent claim 28 recites an apparatus comprising at least one application; and at least one application obtaining means for obtaining at least one part of presence information associated with an user, the at least one part comprising information identifying at least one of said at least one application, wherein the obtaining means is configured to obtain the at least one part comprising information identifying said at least one application (Pat. Appl. Page 7, Lines 22-28, FIG. 3, receiving terminal 12, and FIG. 3 Step 3). In this regard, an example structure for the obtaining means may include the Presence Server 14.

Independent claim 50 recites a method comprising providing presence information, wherein said presence information comprises a plurality of parts, wherein at least one of said parts is provided with information identifying an application for which said at least one part is intended (Pat. Appl. Page 7, Lines 22-28, FIG. 3, Presence Server 14, and FIG. 3, Step 3).

Independent claim 51 recites a computer readable medium (Pat. Appl. Page 9, Lines 14-27, Page 10, Lines 8-22, and FIG. 3, Presence Server 14) comprising a first computer executable

component configured to provide presence information, wherein said presence information comprises a plurality of parts, wherein at least one of said parts is provided with information identifying an application for which said at least one part is intended (Pat. Appl. Page 7, Lines 22-28, FIG. 3, Presence Server 14, and FIG. 3, Step 3).

Independent claim 52 recites a computer readable medium comprising (Pat. Appl. Page 9, Lines 14-27, Page 10, Lines 8-22, and FIG. 3, receiving terminal 12) a first computer executable component configured to use presence information associated with at least one user, wherein said presence information comprises a plurality of parts, at least one of said parts comprising information identifying an application for which said at least one part is intended, said first computer executable component configured to use said information identifying the application to obtain the at least one part of said presence information intended for said at least one application (Pat. Appl. Page 7, Lines 11-20, FIG. 3, receiving terminal 12, and FIG. 3 Step 3).

6. ***Grounds of Rejection to be Reviewed on Appeal.***

A. Claims 1, 11-17, 19, 21-25, and 27-65 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,993,327 to Mathis et al. (hereinafter "Mathis"), in view of U.S. Patent Publication No. 2003/0009530 to Philonenko et al. (hereinafter "Philonenko"). The aforementioned claim rejections are the subject of this appeal.

7. ***Argument.***

The notice of appeal and this appeal brief are submitted in reply to the final Office Action dated December 18, 2010 and the Pre-Appeal Panel Decision dated July 12, 2010. Claims 1, 11-17, 19, 21-25, and 27-65 currently stand rejected. As explained below, however, Appellants respectfully submit that the claimed invention is patentably distinct from the cited references, taken in any proper combination. In view of the remarks presented herein, Appellants respectfully request reversal of the pending rejections and allowance of the pending claims of the present application.

A. Claims 1, 11-17, 19, 21-25, and 27-65 are Nonobvious.

The Office Action rejects claims 1, 11-17, 19, 21-25, and 27-65 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,993,327 to Mathis in view of U.S. Patent

Application No. 2003/0009530 to Philonenko. However, the cited combination fails to teach or suggest all of the elements of the claims and the claimed invention is not an obvious variant of the cited combination.

Independent claim 1 recites "said presence information comprising a plurality of parts, at least one of said parts comprising ***information identifying an application*** for which said at least one part is intended. In other words, the presence information includes information that identifies an application for a particular part. Such a feature is helpful in situations where a device may be executing a number of applications and presence information can be directed to a specific application, rather than providing general information about the user or a device.

The cited combination fails to teach or suggest "information identifying an application" within the context of claim 1. The Office Action cites to Mathis for contributing to the cited combination in a manner that allegedly discloses this feature. However, the recitation of the rejection and cited subject matter with regard to this feature does not address the claim language directed to the information identifying an "application." Rather, the Office Action and the rejection merely consider the identification of devices, and not the identification of applications. In this regard, the Office Action states, when addressing this feature of the claim, that "[e]ach contact list [of Mathis] is capable of identifying **devices** of the plurality of communication devices – col. 2, lines 10-34; [t]he present invention enables distribution of presence information **to multiple client devices** – col. 3, lines 1-67." (Emphasis Added).

The rejection fails to address the disclosure of information identifying an application, and provides no citation to language within Mathis for disclosing this feature. The failures of the Office Action and the rejection of claim 1 in this regard are a result of Mathis failing to address an application as provided within the context of the claims. Rather, Mathis is generally directed to providing information at the device level, not the application level. Mathis at Col. 4, Lines 46-64 lists the types of presence information that may be provided. In this regard, referring the to current presence status of the client devices, the presence information provided in a presence message includes "online status (e.g., available to communicate), off-line status (e.g., unavailable), location attribute & capabilities, device attributes & capabilities, communication network attributes & capabilities (e.g., network resource availability). Presence information is generally dynamic in nature, changing over time based on various factors and conditions." Mathis, Col. 4, Lines 49-54. All of the types of presence information are described with respect

to presence at the device level, and not at an application level. Thus, Mathis provides no teaching or suggestion of application identity information as recited in the independent claims.

In the Response to Arguments section of the pending final Office Action, the Office Action maintains its position with respect to Mathis allegedly teaching or suggesting the feature of presence information identifying an application. In an attempt to bolster the position taken, the Office Action simply makes the conclusory statement that presence information about devices is the "same as" identifying an application. However, one of skill in the art would clearly appreciate the distinction between device level information and application level information. As such, this distinction cannot be so readily disregarded by such a conclusory statement that provides no further grounds for rejecting the claims and fails to assist the Applicants in furthering an expeditious prosecution by explaining the grounds for rejection.

Further, Philonenko's contribution to the cited combination also fails to teach this element, and as such, the combination of Mathis with Philonenko fails to render the claims obvious. The Office Action appears to have cited to Mathis for the disclosure of "information identifying an application" when building the cited combination, but similar language is also included with the alleged teachings or suggestions provided by Philonenko in the Office Action. In this regard, the Office Action indicates that Philonenko allegedly discloses an identification parameter or member ID number at paragraph [0146] of Philonenko.

The member ID number described at paragraph [0146] of Philonenko is associated with a "client" (i.e., "every **client** subscribing to the system of the present invention is provided with at least an identification parameter (member ID number)". The term "client" as used within Philonenko is associated with a user, not an application. The disclosure of Philonenko makes this interpretation of the term "client" clear on numerous occasions through the reference. For example, at paragraph [0143], it is stated that "information described in sub-element 133 ***lends itself to life style and preferences of a client*** and therefore is established in a manner as to be updated as often as necessary." (Emphasis Added) Additionally, at paragraph [0016] Philonenko states that an interactive interface is "operable by the client," again indicating that a "client" is a user or a person. The member ID number of Philonenko therefore fails to identify an application as indicated in claim 1, but rather, identifies a person or user of a device. Accordingly, Philonenko fails to teach or suggest "information identifying an application" as recited in claim 1.

In the Response to Arguments section of the final Office Action, additional portions of Philonenko are cited to by the Office Action for allegedly disclosing the claimed feature. However, while some of the excerpts may generally reference an "application" or something that may be construed as an application, none of the excerpts appear to indicate that precedence information is generated or utilized that identifies an application.

In this regard, for example, the Office Action cites to paragraph [0021] of Philonenko which states, "[i]n some preferred embodiments the networked entities include agents, clients, machines, and software applications and data reporting, and synchronization is conducted using an instant message and presence protocol." The Office Action indicates that this sentence discloses presence information that identifies an application. However, simply indicating that a presence protocol is used in conjunction with an application does not by itself disclose the use or generation of presence information that identifies an application.

Similarly, the Office Action cites to paragraph [0088] of Philonenko for the same purpose. In this regard, Philonenko indicates that a known instant messaging software application may interface with a status server running a Communication-Center-Presence Software that "is adapted to support the particular instant messaging application employed by the user." Again, while interaction with an application is mentioned in this excerpt from Philonenko, nothing is provided that would indicate that presence information is generated or used that would identify the application.

Philonenko likely fails to disclose this feature because Philonenko merely describes mechanisms that utilize presence information in a known format. In this regard, in the background section, Philonenko provides a description of presence information as used within the context of the disclosure, which does not indicate a mechanism for identifying an application. At paragraph [0015], Philonenko describes a system that "uses a presence protocol such as IMMP-IETF RFC 2778 in order to communicate both the agent status information to a requesting client and to communicate active client status to a requesting agent." At paragraph [0017], Philonenko further states that "[w]hile presence information is flexible and useful for reporting information about agents to clients and about clients to agents, it has occurred to the inventors that there also exists an opportunity for using such a presence protocol for managing the communication center itself in terms of internal policy, and member-to-member communication within the center whether agent-to-agent, machine-to-machine, agent-to-

machine, or machine-to-agent." Based on these descriptions of the types and uses of presence information, it is clear that Philonenko is directed to the use of presence information at the user level, and no teaching or suggestion is provided indicating that presence information is used that identifies an associated application.

Due to these and other deficiencies of the combination of Mathis with Philonenko, claim 1 is patentable over Mathis and Philonenko, individually or in any proper combination. The rejection of claim 1, and claims dependent from claim 1, is therefore overcome. Independent claims 21, 23, 24, 27, 28, 50, 51, and 52 include recitations similar to claim 1 described above, and the claims are therefore patentable over the cited references for at least the same reasons. The rejections of claims 21, 23, 24, 27, 28, 50, 51, and 52, and their respective dependent claims, are therefore also overcome.

C. Conclusion

In view of the remarks presented above, Appellants respectfully submit that the present application is in condition for allowance and that the rejections submitted by the final office action should be reversed. As such, Applicants respectfully request reversal of the rejection and the issuance of a Notice of Allowance. In order to expedite the allowance and issuance process, the Examiner is encouraged to contact Applicants' undersigned attorney in order to resolve any remaining issues.

8. ***Claims Appendix.***

The claims subject to this appeal are as follows:

1. (Previously Presented) An apparatus comprising at least one processor and at least one memory including computer program code, the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus at least to perform:

storing presence information associated with at least one user, said presence information comprising a plurality of parts, at least one of said parts comprising information identifying an application for which said at least one part is intended; and

providing presence information associated with said at least one user to at least one entity, said at least one entity comprising at least one application, said at least one entity being configured to use said information identifying the application to obtain the at least one part of said presence information for said at least one application.

2. – 10. (Cancelled)

11. (Previously Presented) The apparatus of claim 23, wherein said at least one user terminal comprises user equipment.

12. (Previously Presented) The apparatus of claim 1, wherein said presence information comprises at least one of the following parts of information: subscriber status; network status; communication means; contact address; subscriber provided location; network provided location; text; priority; mood; or favorite color.

13. (Previously Presented) The apparatus of claim 1, wherein the apparatus is caused to operate in accordance with a session initiation protocol.

14. (Previously Presented) The apparatus of claim 1, wherein said part of information comprises a tuple.

15. (Previously Presented) The apparatus of claim 14, wherein said tuple comprises information identifying said user and said application identifying information.

16. (Previously Presented) The apparatus of claim 1, wherein the apparatus is caused to receive a request from said entity for only one or more parts of said presence information processed by one or more applications of said entity.

17. (Previously Presented) The apparatus of claim 16, wherein said apparatus comprises a filter to provide only the requested parts of said presence information.

18. (Cancelled)

19. (Previously Presented) The apparatus of claim 17, wherein said filter is configured to use said information to filter said presence information.

20. (Cancelled)

21. (Previously Presented) A method, comprising:

receiving at least a portion of presence information associated with a user, said presence information comprising a plurality of parts, at least one of said parts comprising information identifying an application for which said at least one part is intended; and

causing at least one of said parts to be obtained in at least one entity, said at least one entity comprising at least one entity application, the at least one entity obtaining the parts comprising information identifying said at least one entity application for said at least one application.

22. (Previously Presented) The method of claim 21, further comprising:

processing at said at least one entity application, said at least one part of the presence information which comprises information identifying said entity application.

23. (Previously Presented) An apparatus comprising:

associated presence information, wherein said presence information comprises a plurality of parts, wherein said apparatus is configured to provide at least one of said parts with information identifying an application for which said at least one part is intended.

24. (Previously Presented) An apparatus comprising at least one processor and at least one memory including computer program code, the at least one memory and the computer

program code configured to, with the at least one processor, cause the apparatus at least to perform:

executing at least one application;

causing at least one part of presence information associated with an user to be obtained, the at least one part comprising information identifying at least one of said at least one applications,

wherein obtaining comprises obtaining the at least one part comprising information identifying said at least one application for said at least one application.

25. (Previously Presented) The apparatus of claim 24, wherein the application identified in said at least one part is configured to process said at least one part of the presence information that comprises information identifying said application.

26. (Cancelled)

27. (Previously Presented) An apparatus comprising:

associated presence information, wherein said presence information comprises a plurality of parts; and

provision means for providing at least one of said parts with information identifying an application for which said at least one part is intended.

28. (Previously Presented) An apparatus comprising:

at least one application; and

at least one application obtaining means for obtaining at least one part of presence information associated with an user, the at least one part comprising information identifying at least one of said at least one application,

wherein the obtaining means is configured to obtain the at least one part comprising information identifying said at least one application.

29. (Previously Presented) The apparatus as claimed in claim 23, wherein said apparatus is a user terminal.

30. (Previously Presented) The apparatus of claim 23, wherein the apparatus comprises a presence engine.

31. (Previously Presented) The apparatus of claim 30, wherein said at least one application is configured to register with said presence engine said information identifying said application.

32. (Previously Presented) The apparatus of claim 30, wherein at least one of said at least one application and said presence engine are configured to add said identifying information to at least one part of the presence information.

33. (Previously Presented) The apparatus of claim 23, wherein said presence information comprises at least one of the following parts of information: subscriber status; network status; communication means; contact address; subscriber provided location; network provided location; text; priority; mood; or favorite color.

34. (Previously Presented) The apparatus of claim 23, wherein the apparatus is configured to operate in accordance with a session initiation protocol.

35. (Previously Presented) The apparatus of claim 23, wherein said part of information comprises a tuple.

36. (Previously Presented) The apparatus of claim 35, wherein said tuple comprises information identifying the apparatus and said application identifying information.

37. (Previously Presented) The apparatus of claim 24, wherein the apparatus is configured to receive said at least one part of said information.

38. (Previously Presented) The apparatus of claim 37, wherein the apparatus is configured to direct said at least one part of said information to the identified application.

39. (Previously Presented) The apparatus of claim 24, wherein the apparatus comprises an application engine, which is configured to direct said at least one part of said information to the identified application.

40. (Previously Presented) The apparatus of claim 24, wherein the apparatus comprises a user terminal.

41. (Previously Presented) The apparatus of claim 24, wherein the apparatus is configured to receive said at least one part of said information in response to a request from the apparatus.

42. (Previously Presented) The apparatus of claim 24, wherein said presence information comprises at least one of the following parts of information: subscriber status; network status; communication means; contact address; subscriber provided location; network provided location; text; priority; mood; or favorite color.

43. (Previously Presented) The apparatus of claim 24, wherein the apparatus is configured to operate in accordance with a session initiation protocol.

44. (Previously Presented) The apparatus of claim 24, wherein said part of information comprises a tuple.

45. (Previously Presented) The apparatus of claim 44, wherein said tuple comprises information identifying said user and said application identifying information.

46. (Previously Presented) The apparatus of claim 24, wherein the apparatus is caused to request only one or more parts of said presence information processed by one or more applications of the apparatus.

47. (Previously Presented) The apparatus of claim 46, wherein a filter is provided to provide only the requested parts of said presence information.

48. (Previously Presented) The apparatus of claim 47, wherein said filter is provided in at least one of a server, a presence server, and at least one user terminal.

49. (Previously Presented) The apparatus of claim 24, wherein the apparatus is caused to use said information to filter said presence information.

50. (Previously Presented) A method comprising:

providing presence information, wherein said presence information comprises a plurality of parts, wherein at least one of said parts is provided with information identifying an application for which said at least one part is intended.

51. (Previously Presented) A computer readable medium comprising:

a first computer executable component configured to provide presence information, wherein said presence information comprises a plurality of parts, wherein at least one of said parts is provided with information identifying an application for which said at least one part is intended.

52. (Previously Presented) A computer readable medium comprising:

a first computer executable component configured to use presence information associated with at least one user, wherein said presence information comprises a plurality of parts, at least one of said parts comprising information identifying an application for which said at least one part is intended, said first computer executable component configured to use said information identifying the application to obtain the at least one part of said presence information intended for said at least one application.

53. (Previously Presented) The method of claim 21, further comprising:

directing said at least one part of said information to the identified entity application.

54. (Previously Presented) The method of claim 21, further comprising:

sending a request,

wherein said receiving comprises receiving said at least one part of said information in response to the request.

55 (Previously Presented) The method of claim 21, wherein said presence information comprises at least one of the following parts of information: subscriber status; network status; communication means; contact address; subscriber provided location; network provided location; text; priority; mood; or favorite color.

56. (Previously Presented) The method of claim 21, wherein said part of information comprises a tuple.

57. (Previously Presented) The method of claim 56, wherein said tuple comprises information identifying said user and said application identifying information.

58. (Previously Presented) The method of claim 50, further comprising:
receiving said at least one part of said information.

59. (Previously Presented) The method of claim 50, further comprising:
directing said at least one part of said information to the identified application.

60. (Previously Presented) The method of claim 50, further comprising:
sending a request; and
receiving said at least one part of said information in response to the request.

61. (Previously Presented) The method of claim 50, wherein said presence information comprises at least one of the following parts of information: subscriber status; network status; communication means; contact address; subscriber provided location; network provided location; text; priority; mood; or favorite color.

62. (Previously Presented) The method of claim 50, wherein said part of information comprises a tuple.

63. (Previously Presented) The method of claim 62, wherein said tuple comprises information identifying said user and said application identifying information.

64. (Previously Presented) The method of claim 50, further comprising:
requesting only one or more parts of said presence information to be processed by one or more applications.

65. (Previously Presented) The method of claim 50, further comprising:
filtering said presence information using said information identifying said application.

9. ***Evidence Appendix.***

None.

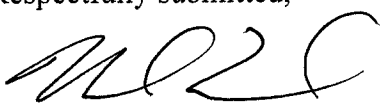
10. ***Related Proceedings Appendix.***

None.

CONCLUSION

For at least the foregoing reasons, Appellant respectfully requests that the rejections be reversed.

Respectfully submitted,



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